

## 2009 DRAFTING REQUEST

### Bill

Received: **01/20/2009**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-7597**

By/Representing: **Lillethun**

This file may be shown to any legislator: **NO**

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Tax, Individual - income**

Extra Copies:

Submit via email: **NO**

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### Pre Topic:

DOA:.....Lillethun, BB0494 -

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### Topic:

Individual income tax; create a new upper bracket

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### Instructions:

See attached. Create a new upper bracket of 7.75% for income above: \$187,500 if single; \$250,000 if married joint; \$125,000 for married separate. Init. app.: TY 1/1/09

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### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State
/1	mshovers 01/20/2009	jdye 01/21/2009	jfrantze 01/21/2009	_____	cdurst 01/21/2009		State
/2	mshovers 01/27/2009	kfollett 01/27/2009	phenry 01/27/2009	_____	mbarman 01/28/2009		State
/3	mshovers 01/29/2009	jdye 01/29/2009	mduchek 01/29/2009	_____	lparisi 01/29/2009		State
/4	mshovers 01/30/2009	jdye 01/30/2009	mduchek 01/30/2009	_____	cdurst 01/30/2009		State

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/5	mshovers 02/02/2009	csicilia 02/03/2009	phenry 02/03/2009	_____	mbarman 02/03/2009		State
/6	mshovers 02/12/2009	jdye 02/12/2009	jfrantze 02/12/2009	_____	lparisi 02/12/2009		

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15 NES 2/2/09 / 5 gjs 2/2/09

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mshovers

1/21/09

J. Daly  
1/21

FE Sent For:

&lt;END&gt;

## 2007-09 Budget Bill Statutory Language Drafting Request

- Topic: Increase to Upper Bracket of Individual Income Tax
- Tracking Code: BB04941
- SBO team: Tax, Transportation and Budget Development Team
- SBO analyst: Chad Lillethun
  - Phone: 266-7597
  - Email: Chad.Lillethun@wisconsin.gov
- Agency acronym: DOR
- Agency number: 566
- Priority (Low, Medium, High): High

### Intent:

Create a new high individual income tax bracket rate of 7.75% applicable to single filers with income greater than \$187,500, for married filing jointly with income greater than \$250,000, and married separate with income greater than \$125,000.



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1675/?

MES:.....

DOA:.....Lillethun, BB0494 - Individual income tax; create a new upper bracket

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

✓  
1

AN ACT ...; relating to: creating a new individual income tax upper bracket.

*Analysis by the Legislative Reference Bureau*

**TAXATION**

**INCOME TAXATION**

Under current law, there are four income tax brackets for single individuals, certain fiduciaries, heads of households, and married persons. The brackets are indexed for inflation. The rate of taxation under current law for the lowest bracket for single individuals, certain fiduciaries, heads of households, and married persons is 4.6 percent of taxable income; the rate for the second bracket is 6.15 percent; the rate for the third bracket is 6.5 percent; and the rate for the highest bracket is 6.75 percent.

Currently, the highest bracket applies to taxable income exceeding \$112,500 for single individuals, certain fiduciaries, and heads of households. For married persons, the highest current bracket applies to taxable income exceeding \$150,000 for joint filers and \$75,000 for separate filers.

This bill creates a fifth bracket with a taxation rate of 7.75 percent. For single individuals, certain fiduciaries, and heads of households, this bracket applies to taxable income exceeding \$187,500. For married persons, this bracket applies to taxable income exceeding \$250,000 for joint filers and \$125,000 for separate filers.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 71.06 (1p) (d) of the statutes is amended to read:

71.06 (1p) (d) On all taxable income exceeding \$112,500 but not exceeding \$187,500, 6.75%.

**SECTION 2.** 71.06 (1p) (e) of the statutes is created to read:

71.06 (1p) (e) On all taxable income exceeding \$187,500, 7.75 percent.

**SECTION 3.** 71.06 (2) (g) 4. of the statutes is amended to read:

71.06 (2) (g) 4. On all taxable income exceeding \$150,000 but not exceeding \$250,000, 6.75%.

**SECTION 4.** 71.06 (2) (g) 5. of the statutes is created to read:

71.06 (2) (g) 5. On all taxable income exceeding \$250,000, 7.75 percent.

**SECTION 5.** 71.06 (2) (h) 4. of the statutes is amended to read:

71.06 (2) (h) 4. On all taxable income exceeding \$75,000 but not exceeding \$125,000, 6.75%.

**SECTION 6.** 71.06 (2) (h) 5. of the statutes is created to read:

71.06 (2) (h) 5. On all taxable income exceeding \$125,000, 7.75 percent.

**SECTION 9343. Initial applicability; Revenue.**

(1) INDIVIDUAL INCOME TAX BRACKETS. The treatment of section 71.06 (1p) (d) and (e) (2) (g) 4. and 5. and (2) (h) 4. and 5. of the statutes first applies to taxable years beginning on January 1 of the year in which this subsection takes effect, except that if this subsection takes effect after July 31 the treatment of section 71.06 (1p) (d) and (e) (2) (g) 4. and 5. and (2) (h) 4. and 5. of the statutes first applies to taxable years

1 beginning on January 1 of the year following the year in which this subsection takes  
2 effect.

3 (END)

**Shovers, Marc**

---

**From:** Lillethun, Chad W - DOA [Chad.Lillethun@wisconsin.gov]  
**Sent:** Monday, January 26, 2009 4:13 PM  
**To:** Shovers, Marc  
**Subject:** FW: LRB Draft: 09-1675/1 Individual income tax; create a new upper bracket  
**Attachments:** 09-1675/1.pdf

Marc - I'm forwarding you the DOR review related to the individual income tax rate changes. I'm not sure yet how we're going to handle some of these concerns.

First, it's mentioned that current indexing is tied to a 1997 base year and if we introduce a new bracket tied to the current base year we'll get a 36% jump in the first year. What's the cleanest way to handle this. It is not intended to provide this type of jump, but rather introduce a new, higher bracket with minimal disruption to the current indexing. Is it possible to handle indexing the top bracket similar to how we'd handle the homestead credit by measuring the August over August change from the previous year?

Second, I need find out how we should handle the underpayment interest concern. Perhaps we add language that waives underpayment interest for the first tax year this takes effect. Let me know your thoughts on doing that.

Third, the intent is in fact to have this take effect for tax year 2009. If we handle bracket indexing for the 7.75% bracket independently from the rest of the tax structure, then I'm inclined to commence the indexing for this bracket beginning TY10.

These are my tentative answers on the DOR concerns, but I need to confirm all of this. I'll keep you posted.

-Chad

---

**From:** Frantzen, Jean [mailto:Jean.Frantzen@legis.wisconsin.gov]  
**Sent:** Wednesday, January 21, 2009 9:51 AM  
**To:** Lillethun, Chad W - DOA  
**Cc:** Grinde, Kirsten - DOA; Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA  
**Subject:** LRB Draft: 09-1675/1 Individual income tax; create a new upper bracket

*Following is the PDF version of draft 09-1675/1.*

**Shovers, Marc**

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**From:** Shovers, Marc  
**Sent:** Monday, January 26, 2009 6:05 PM  
**To:** Lillethun, Chad W - DOA  
**Subject:** RE: LRB Draft: 09-1675/1 Individual income tax; create a new upper bracket

Hi Chad:

Was there supposed to be a memo from DOR attached? If so, I didn't get it. I only got a copy of the draft.

With regard to the indexing problem, I can think of 2 solutions. One would be just to split s. 71.06 (2e) into separate paragraphs, such that par. (a) would apply to all current brackets, and par. (b) would be created to index the new bracket that is created in the draft. If for some reason you didn't want to do this, you could set the new top bracket at a lower rate for 2009, such as 5.7%, then a 36% increase due to indexing would raise it to about 7.75% in 2010. The down side is, you'll get less revenue in 2009 with a 5.7% vs. a 7.75% rate.

Without seeing the memo from DOR, I can't quite grasp what their 2nd point is.

I know the goal is to have the new bracket start in 2009, but I had to draft the initial applicability language as I did to allow DOR enough time to print the new forms. That's why the new rate will start on the following January 1 if the provision is not enacted until after July 31, although there's probably a little flexibility with that 7/31 date. The init. app. provision in the bill, however, is our standard drafting procedure for a tax draft's initial applicability.

Please send me the memo so I can see what their underpayment of interest concern is. Thanks.

Marc

---

**From:** Lillethun, Chad W - DOA [mailto:Chad.Lillethun@wisconsin.gov]  
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**Cc:** Grinde, Kirsten - DOA; Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA

**Subject:** LRB Draft: 09-1675/1 Individual income tax; create a new upper bracket

*Following is the PDF version of draft 09-1675/1.*

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## 2009-11 LRB Draft Review

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**Date:** January 21, 2009

**LRB Number:** 1675/1

**Reviewed by:** Marcy Stock

### **Brief Description of LRB Draft:**

This bill provides for an additional tax bracket with a tax rate of 7.75%.

### **Comments on Draft:**

*Indicate whether draft will accomplish intent, or if not, why not*

Provides the additional tax bracket but causes problems with indexing.

### **Changes Needed & Why:**

*Include page and line references if appropriate. Example: page 2, line 4-5 – omit the phrase “with respect to a product under s.77.51 (3) (a)...” and replace with the phrase “all products used in a manner consistent with...”*

Section 71.06(2e) requires yearly indexing of the tax brackets. Indexing is based on the consumer price index for August 1997. Because of the use of the 1997 date, the first year the new bracket is indexed it will increase by about 36%. For example, for a single person, if the \$187,500 had been in effect for 2008, it would have increased to \$255,460 for 2009. Is this the intent or should there be separate indexing for the new bracket? (Note: Under current indexing, for 2009 the \$112,500 amount in Section 1 is \$153,280, the \$150,000 amount in Section 3 is \$204,370, and the \$75,000 amount in Section 5 is \$102,190.)

If this bill takes effect before July 31, it will apply to taxable years beginning in 2009. The 2009 tax rates have already been published to be used by persons who are required to make 2009 estimated tax payments. It may be considered inequitable for them to be subject to underpayment interest because of the change in rates. If this issue were to be addressed, the bill should first apply to taxable years beginning in 2010.

The bill should clarify when the indexing is to take effect. For example, if the new brackets first apply to taxable years beginning in 2010, the bill should specify that

indexing applies to taxable years beginning in 2011. Or are the brackets to be immediately indexed for the first year to which this bill applies?

## Shovers, Marc

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**From:** Lillethun, Chad W - DOA [Chad.Lillethun@wisconsin.gov]  
**Sent:** Monday, January 26, 2009 6:41 PM  
**To:** Shovers, Marc  
**Subject:** RE: LRB 1675-1 Individual income tax bracket review

Sounds good to me. Let's go with it for now.

---

**From:** Shovers, Marc [mailto:Marc.Shovers@legis.wisconsin.gov]  
**Sent:** Monday, January 26, 2009 6:19 PM  
**To:** Lillethun, Chad W - DOA  
**Subject:** RE: LRB 1675-1 Individual income tax bracket review

Thanks Chad. One option to address the underpayment interest issue would be to just create a new paragraph in s.71.09 (11) to state that no interest under s. 71.84 (1) is required because of an underpayment of estimated taxes due to the change in the bracket. I could work with Marcy on the precise language, but that's the idea.

Marc

-----Original Message-----

**From:** Lillethun, Chad W - DOA [mailto:Chad.Lillethun@wisconsin.gov]  
**Sent:** Monday, January 26, 2009 6:09 PM  
**To:** Shovers, Marc  
**Subject:** FW: LRB 1675-1 Individual income tax bracket review

Sorry, Marc. I meant to attach the memo. Here you go.

-Chad

-----Original Message-----

**From:** Templeton, Carrie E - DOR  
**Sent:** Sunday, January 25, 2009 6:12 PM  
**To:** Lillethun, Chad W - DOA; Grinde, Kirsten - DOA  
**Subject:** FW: LRB 1675-1 Individual income tax bracket review

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**From:** Raes, Julie M - DOR  
**Sent:** Sunday, January 25, 2009 1:04 PM  
**To:** Templeton, Carrie E - DOR; Wink, Wendy L - DOR  
**Cc:** Gates-Hendrix, Sherrie L - DOR  
**Subject:** LRB 1675-1 Individual income tax bracket review

For your review before sending to DOA.

Thank you,  
Julie

01/27/2009



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1675/1

MES:jld:jf

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FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

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71.06 (2) (h) 4. On all taxable income exceeding \$75,000 but not exceeding \$125,000, 6.75%.

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**SECTION 9343. Initial applicability; Revenue.**

(1) INDIVIDUAL INCOME TAX BRACKETS. The treatment of section 71.06 (1p) (d) and (e) and (2) (g) 4. and 5. and (h) 4. and 5. <sup>and 71.09 (11) (e)</sup> of the statutes first applies to taxable years beginning on January 1 of the year in which this subsection takes effect, except that if this subsection takes effect after July 31 the treatment of section 71.06 (1p) (d) and (e) and (2) (g) 4. and 5. and (h) 4. and 5. <sup>and 71.09 (11) (e)</sup> of the statutes first applies to taxable years

1 beginning on January 1 of the year following the year in which this subsection takes  
2 effect.

3 (END)

**2009-2010 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1675/2ins  
MES:jld:jf

1           INS 2-15

2           **SECTION 1.** 71.09 (11) (e) of the statutes is created to read:

3           71.09 (11) (e) The taxpayer has underpaid the taxpayer's estimated taxes due

4           to the change in brackets under ss. 71.06 (1p) (e) and 71.06 (2) (g) 5. and (h) 5. This

5           paragraph applies only in the first taxable year to which these bracket changes apply.



**Shovers, Marc**


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**From:** Stock, Marcella L - DOR [Marcella.Stock@revenue.wi.gov]  
**Sent:** Thursday, January 29, 2009 10:27 AM  
**To:** Shovers, Marc; Lillethun, Chad W - DOA; Boldt, Rebecca A - DOR  
**Subject:** RE: top bracket indexing.doc

I agree with you Marc. It would be better to use your changes and specifically refer to *and the dollar amount in the top bracket under subs (1p)(e) and (2)(g)5. and (h)5.* While I may want to interpret "the maximum dollar amount in each tax bracket, and the corresponding minimum dollar amount in the next bracket" to include the minimum dollar amount in sub. (1p) (e) and (2) (g) 5. and (h) 5, it is better to be more specific so that there can be no misunderstanding.

Marcy

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**From:** Shovers, Marc [mailto:Marc.Shovers@legis.wisconsin.gov]  
**Sent:** Thursday, January 29, 2009 10:00 AM  
**To:** Lillethun, Chad W - DOA; Stock, Marcella L - DOR; Boldt, Rebecca A - DOR  
**Subject:** RE: top bracket indexing.doc

I think that Rebecca's solution for sec. 1 works fine and addresses Chad's concern. In the case of s. 71.06 (1p), for example, sec. 1 of the bill refers to the maximum dollar amount in the bracket under par. (c), which is \$112,500, and the minimum dollar amount in the next bracket, par. (d), which is also \$112,500. There is similar treatment for the brackets under s. 71.06 (2) (g) 1. to 3. and (h) 1. to 3.

But as I look at the "simpler" solution for sec. 2 of the bill, however, I'm a little concerned that it may not give DOR sufficient authority to index the top brackets under sub. (1p) (e) and (2) (g) 5. and (h) 5. The language in the proposal for bill sec. 2 refers to the max dollar amount in each bracket, and the minimum dollar amount in the next bracket, but it is limited to s. 71.06 (1p) (d) and (2) (g) 4. and (h) 5.

For example, in the case of par. (1p) (d), the max dollar amount would be \$187,500. This is also the max and minimum amount in the next bracket, par. (e), but the text of the statute does not refer to par. (e). One could argue that because \$187,500 is the max dollar amount in par. (d), DOR could just go ahead and index par. (e) because it is the same dollar amount, but I wonder if it might be safer to use Rebecca's original language. The "simpler" solution would allow for indexing the amount of \$187,500, but the statute itself would give no authority to index the **brackets** under subs. (1p) (e) and (2) (g) 5. and (h) 5. The original solution addresses this concern because it refers to the brackets:

*the maximum dollar amount in each tax bracket, and the corresponding minimum dollar amount in the next bracket, under subs. (1p) (d) and (2) (g) 4. and (h) 4., and the dollar amount in the top bracket under subs (1p)(e) and (2)(g)5. and (h)5.*

This language insures that DOR has the authority to index the amounts in subs. (1p) (e) and (2) (g) 5. and (h) 5. Marcy, do you think this is a reasonable concern?

Marc

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**From:** Lillethun, Chad W - DOA [mailto:Chad.Lillethun@wisconsin.gov]  
**Sent:** Thursday, January 29, 2009 9:35 AM  
**To:** Stock, Marcella L - DOR; Shovers, Marc; Boldt, Rebecca A - DOR  
**Subject:** RE: top bracket indexing.doc

I believe Rebecca's concern recognized that the ceiling of the 6.75% bracket is the same as the floor of the 7.75% bracket. Therefore, if we choose to split out a separate index for the new top bracket (7.75%), we need to make sure that the ceiling of 6.75% and the floor of 7.75% are tied to the same index so they move together. If this accomplishes that, then I think we're good and we should move forward with this approach with the application date of 8/31/08 mentioned below.

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**From:** Stock, Marcella L - DOR  
**Sent:** Thursday, January 29, 2009 9:18 AM  
**To:** Lillethun, Chad W - DOA; Shovers, Marc - LEGIS; Boldt, Rebecca A - DOR  
**Subject:** RE: top bracket indexing.doc

I have been reviewing it this morning. I agree that Rebecca's solution works for section one and her simpler solution for section 2. As I understand it, this would mean that the lower brackets would continue to be indexed based on August of 1997 and the top bracket would be indexed based on August of 2008.

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**From:** Lillethun, Chad W - DOA  
**Sent:** Thursday, January 29, 2009 8:57 AM  
**To:** Shovers, Marc - LEGIS; Boldt, Rebecca A - DOR; Stock, Marcella L - DOR  
**Subject:** RE: top bracket indexing.doc

I'm ok with moving ahead with Rebecca's suggested change below and with moving the initial application date to 8/31/09. However, I think Rebecca wanted Marcy to review this further to confirm this was the right approach.

Marcy - Are you on board with the below? Thanks.

-Chad

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**From:** Shovers, Marc [mailto:Marc.Shovers@legis.wisconsin.gov]  
**Sent:** Wednesday, January 28, 2009 6:24 PM  
**To:** Boldt, Rebecca A - DOR; Stock, Marcella L - DOR  
**Cc:** Lillethun, Chad W - DOA  
**Subject:** RE: top bracket indexing.doc

I think Rebecca's solution works for section one of the bill, as does her simpler solution for section 2. Chad, let me know how you want to proceed, and whether you'd like to change the 7/31/09 date in the initial app. to 8/31/09.

Marc

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**From:** Boldt, Rebecca A - DOR [mailto:Rebecca.Boldt@revenue.wi.gov]

01/29/2009

**Sent:** Wednesday, January 28, 2009 5:46 PM  
**To:** Shovers, Marc; Stock, Marcella L - DOR  
**Cc:** Lillethun, Chad W - DOA  
**Subject:** FW: top bracket indexing.doc

On second thought, maybe the section 2 needs a more simple change:

Section 2. 71.06 (2e) (b) of the statutes is created to read:

*71.06 (2e) (b) For taxable years beginning after December 31, 2009, the maximum dollar amount in each tax bracket, and the corresponding minimum dollar amount in the next bracket, under subs. (1p) (d) and (2) (g) 4. and (h) 4., shall be increased each year by a percentage equal to the percentage change between the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August of the previous year and the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August 2008, as determined by the federal department of labor. Each amount that is revised under this paragraph shall be rounded to the nearest multiple of \$10 if the revised amount is not a multiple of \$10 or, if the revised amount is a multiple of \$5, such an amount shall be increased to the next higher multiple of \$10. The department of revenue shall annually adjust the changes in dollar amounts required under this paragraph and incorporate the changes into the income tax forms and instructions.*

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**From:** Boldt, Rebecca A - DOR  
**Sent:** Wednesday, January 28, 2009 5:41 PM  
**To:** Shovers, Marc - LEGIS; Lillethun, Chad W - DOA  
**Cc:** Caruth, Bradley R - DOR; Stock, Marcella L - DOR; Gates-Hendrix, Sherrie L - DOR; Raes, Julie M - DOR  
**Subject:** RE: top bracket indexing.doc

I'm thinking that the reference should look like this (see changes in pink):

Section 1. 71.06 (2e) of the statutes is renumbered 71.06(2e)(a) and amended to read:

*71.06 (2e) (a) Bracket indexing. For taxable years beginning after December 31, 1998, and before January 1, 2000, the maximum dollar amount in each tax bracket, and the corresponding minimum dollar amount in the next bracket, under subs. (1m) and (2) (c) and (d), and for taxable years beginning after December 31, 1999, the maximum dollar amount in each tax bracket, and the corresponding minimum dollar amount in the next bracket, under subs. (1n), (1p) **(a) to (c)**, and (2) (e), (f), (g) **1. to 3.**, and (h) **1. to 3.** shall be increased each year by a percentage equal to the percentage change between the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August of the previous year and the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August 1997, as determined by the federal department of labor, except that for taxable years beginning after December 31, 2000, and before January 1, 2002, the dollar amount in the top bracket under subs. (1p) (c) and (d), (2) (g) 3. and 4. and (h) 3. and 4. shall be increased by a percentage equal to the percentage change between the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August of the previous year and the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August 1999, as determined by the federal department of labor. Each amount that is revised under this **[subsection] paragraph** shall be rounded to the nearest multiple of \$10 if the revised amount is not a multiple of \$10 or, if the revised amount is a multiple of \$5, such an amount shall be increased to the next higher multiple of \$10. The department of revenue shall annually adjust the changes in dollar amounts required under this **[subsection] paragraph** and incorporate the changes into the income tax forms and instructions.*

Working off the draft:

Take the single/head of household bracket in (1p):

The maximum dollar amount in (1p)(c)= \$112,500

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The corresponding minimum dollar amount in next bracket of (c) (i.e., (d)) is \$112,500

The maximum dollar amount in (1p)(d) = \$187,500

The corresponding minimum dollar amount in the next bracket of (1p)(d) (which is (1p)(e)) is \$187,500

As Marc drafted it, the reference to (d) will base the \$187,500 amount on 1997

If it references only to (c) only up to the \$112,500 will be indexed based on 1997

Section 2. 71.06 (2e) (b) of the statutes is created to read:

*71.06 (2e) (b) For taxable years beginning after December 31, 2009, the maximum dollar amount in each tax bracket, and the corresponding minimum dollar amount in the next bracket, under subs. (1p) (d) and (2) (g) 4. and (h) 4., and the dollar amount in the top bracket under subs (1p)(e) and (2)(g)5. and (h)5. shall be increased each year by a percentage equal to the percentage change between the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August of the previous year and the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August 2008, as determined by the federal department of labor. Each amount that is revised under this paragraph shall be rounded to the nearest multiple of \$10 if the revised amount is not a multiple of \$10 or, if the revised amount is a multiple of \$5, such an amount shall be increased to the next higher multiple of \$10. The department of revenue shall annually adjust the changes in dollar amounts required under this paragraph and incorporate the changes into the income tax forms and instructions.*

I could be misreading what next bracket under s... means, so I defer to Marcy on this (or is it more dump on Marcy?) if this needs to be decided before Friday.

Rebecca

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**From:** Shovers, Marc [mailto:Marc.Shovers@legis.wisconsin.gov]

**Sent:** Wednesday, January 28, 2009 4:50 PM

**To:** Lillethun, Chad W - DOA; Boldt, Rebecca A - DOR

**Cc:** Caruth, Bradley R - DOR; Stock, Marcella L - DOR; Gates-Hendrix, Sherrie L - DOR; Raes, Julie M - DOR

**Subject:** RE: top bracket indexing.doc

Hi Chad and Rebecca:

I have a suggestion that may simplify matters. Because we can be certain that the budget bill as introduced will not be the document that is enacted, and because we'll have a pretty good sense by July whether it will be enacted before 7/31/09, I think we can simplify things by keeping the draft as is, with a change to the indexing (see below). We could even move the initial applicability date out to 8/31/09 too, as Rebecca suggests, to provide more flexibility.

If by mid-July or mid-August it appears that the bill will not be enacted by 7/31/09 or 8/31/09 it will be easy enough to just redraft the initial applicability provision to state that it first applies to taxable years beginning on 1/1/10, and then delete bill section 7 (no interest for underpayment of estimated tax payments) to address Rebecca's concern that a provision such as this one is not needed with an initial applicability of 1/1/10.

Here's what I'd propose for the bracket indexing:

*Section 1. 71.06 (2e) of the statutes is renumbered 71.06(2e)(a) and amended to read:*

01/29/2009

71.06 (2e) (a) *Bracket indexing.* For taxable years beginning after December 31, 1998, and before January 1, 2000, the maximum dollar amount in each tax bracket, and the corresponding minimum dollar amount in the next bracket, under subs. (1m) and (2) (c) and (d), and for taxable years beginning after December 31, 1999, the maximum dollar amount in each tax bracket, and the corresponding minimum dollar amount in the next bracket, under subs. (1n), (1p) **(a) to (d)**, and (2) (e), (f), (g) **1. to 4.**, and (h) **1. to 4.**, shall be increased each year by a percentage equal to the percentage change between the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August of the previous year and the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August 1997, as determined by the federal department of labor, except that for taxable years beginning after December 31, 2000, and before January 1, 2002, the dollar amount in the top bracket under subs. (1p) (c) and (d), (2) (g) 3. and 4. and (h) 3. and 4. shall be increased by a percentage equal to the percentage change between the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August of the previous year and the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August 1999, as determined by the federal department of labor. Each amount that is revised under this **[subsection] paragraph** shall be rounded to the nearest multiple of \$10 if the revised amount is not a multiple of \$10 or, if the revised amount is a multiple of \$5, such an amount shall be increased to the next higher multiple of \$10. The department of revenue shall annually adjust the changes in dollar amounts required under this **[subsection] paragraph** and incorporate the changes into the income tax forms and instructions.

Section 2. 71.06 (2e) (b) of the statutes is created to read:

71.06 (2e) (b) For taxable years beginning after December 31, 2009, the maximum dollar amount in each tax bracket, and the corresponding minimum dollar amount in the next bracket, under subs. (1p) (e) and (2) (g) 5. and (h) 5., shall be increased each year by a percentage equal to the percentage change between the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August of the previous year and the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August 2008, as determined by the federal department of labor. Each amount that is revised under this paragraph shall be rounded to the nearest multiple of \$10 if the revised amount is not a multiple of \$10 or, if the revised amount is a multiple of \$5, such an amount shall be increased to the next higher multiple of \$10. The department of revenue shall annually adjust the changes in dollar amounts required under this paragraph and incorporate the changes into the income tax forms and instructions.

Chad, please let me know how you'd like to proceed. Thanks, everyone.

Marc

Marc E. Shovers

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01/29/2009

e-mail: marc.shovers@legis.wisconsin.gov

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**From:** Lillethun, Chad W - DOA [mailto:Chad.Lillethun@wisconsin.gov]  
**Sent:** Wednesday, January 28, 2009 4:12 PM  
**To:** Shovers, Marc; Boldt, Rebecca A - DOR  
**Cc:** Caruth, Bradley R - DOR; Stock, Marcella L - DOR; Gates-Hendrix, Sherrie L - DOR; Raes, Julie M - DOR  
**Subject:** FW: top bracket indexing.doc

Ok. I'll try that again and actually copy Marc this time.

Sorry, Marc. See the below.

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**From:** Lillethun, Chad W - DOA  
**Sent:** Wednesday, January 28, 2009 4:09 PM  
**To:** Boldt, Rebecca A - DOR  
**Cc:** Caruth, Bradley R - DOR; Stock, Marcella L - DOR; Gates-Hendrix, Sherrie L - DOR; Raes, Julie M - DOR  
**Subject:** FW: top bracket indexing.doc

Rebecca - All of the below sounds good to me, copying Marc in case he has questions.

Marc - The information below provides the direction we're heading in for the individual income tax bracket indexing issue. Rebecca is out all day tomorrow so you may want to take a quick glance at this.

Thanks everyone.

-Chad

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**From:** Boldt, Rebecca A - DOR  
**Sent:** Wednesday, January 28, 2009 3:59 PM  
**To:** Lillethun, Chad W - DOA  
**Cc:** Stock, Marcella L - DOR; Caruth, Bradley R - DOR; Gates-Hendrix, Sherrie L - DOR; Raes, Julie M - DOR  
**Subject:** top bracket indexing.doc

Chad:

I'll be away tomorrow (all day manager's mtg), but I wanted to give you my thoughts.

1. Attached is one way to approach the indexing. It specifies 1) the tax brackets in the first effective year, 2) indexing occurs the year after the effective year and 3) bases the index on the August of the year prior to the effective year. It provides the language under a 2009 effective year and a 2010 effective year.

2. In answer to your query about flexibility. I don't think we can do away with the provision that specifies that late passage means a delay in the effective year. We can't count on the time of passage in the best of times, and it would create significant delays and/or confusion and costs (on the taxpayers, software developers and the dept) to make it effective for TY2009 even if it's passed as late as October or November. Perhaps you can push the provision whereby passage after 8/31 pushes it out a year, but I think something has to stay in.

3. In **SECTION 7. the draft creates s.71.09 (11) (e)** to read:

**71.09 (11) (e)** The taxpayer has underpaid the taxpayer's estimated taxes due to the change in brackets under s. 71.06 (1p) (e) and (2) (g) 5. and (h) 5. This paragraph applies only in the first taxable year to which these bracket changes apply.

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Two things:

1. To align this section with the bracket language in the attached document, the cross references (in blue) need to be changed to s.71.06(1q), (2)(ga) and (i).
2. This language is fine for protection in case of 2009 effective year. But what if the first effective year is 2010 and there is plenty of time for the estimated payment schedules to reflect the correct brackets? The language would exempt underpayment interest in the first year, even if there is no confusion/changes to the 2010 estimated payment schedules.

I will incorporate these concerns in the template on Friday if you think the attached approach is the way to go (my apologies in advance to Marc - it is not elegant I know).

Rebecca